Before the Federal Communications Commission Washington, D.C. 20554

In the Matter of)	CG Docket No. 02-278
)	
Rules and Regulations Implementing)	
)	
the Telephone Consumer Protection)	
)	
Act of 1991)	

SUPPLEMENTAL REPLY COMMENTS OF JOE SHIELDS

I respectfully submit these supplemental reply comments in reply to the several hundred comments filed by various associations in regard to the Commission's new requirements and the Commission's reversal on the Existing Business Relationship ("EBR") dealing with facsimile advertisements. [In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, Report and Order, FCC Rcd., 03-153 (F.C.C. Jul 03, 2003), 68 FR 44144-01.]

In the June 26th adoption of the Commission Report and Order the Commission reversed its earlier opinions that a prior EBR constitutes prior express consent to receive facsimile advertisements. Such a reversal is appropriate given the plain language of the statute, the intent of Congress and the many decisions handed down by the courts that have addressed this issue¹.

The association commentors are requesting that the Commission re-instate its prior opinions on the EBR issue mostly commenting that the new rules will impact their sharing of information with their membership. The sharing of information does not fall under the definition of an advertisement. Perhaps the association commentors are not being forthright with the Commission that their facsimile transmissions are by definition advertisements. Certainly a facsimile transmission that announces a seminar is by definition an advertisement.

I work for a federal contractor at a federal facility and see many unsolicited facsimile advertisements. This year alone over 400 unsolicited facsimile advertisements were received on the fourteen (14) facsimile machines that I have access to. Included in those facsimiles are advertisements for seminars². Apparently this is occurring at federal

¹ See comments of Kondos & Kondos Law Offices, John Holcomb Esq. and Robert Biggerstaff

² See attached – the Commission may note that only 2 out of the 6 unsolicited facsimile advertisements contain the required header information. Additionally only 2 were addressed to any individual both of which were transferred to another project/department.

facilities all over the country. Such facsimiles are not only a violation of the TCPA they are also trespass upon, conversion of and theft of government property. The engineers I work with provide their facsimile numbers when submitting RFP's (Request for Proposal) on their projects. Permission to transmit unsolicited facsimile advertisements is never given – that is not only company policy it is also federal law that prohibits the use of federal property for advertising purposes.

In that light it is only prudent that everyone obtain permission by signature and telephone number prior to transmitting a facsimile advertisement. Asking for permission during an initial contact with one of these engineers does not take that much more time or any extra record keeping. The association commentors and their members should already be doing that to avoid being associated with the junk fax blaster that claims³:

"This ad is being sent by a lead generation company that will sale [sic] ad responses to companies interested in providing the advertised services. For your information, your fax number was legally purchased from an opt-in fax number list provider in accordance with federal and state law. However if you wish to have your fax number removed please call 1-800-838-7573, allow up to 24 hours for the removal process."

In conclusion, there is no exemption in the TCPA for business organizations or non-profit entities in regard to facsimile advertisement transmission. It is not labor intensive or burdensome to obtain the signature and telephone number prior to transmitting an unsolicited facsimile advertisement. It is not only the proper thing to do but it will also help those entities engaged in legitimate business activities from violating the TCPA. As such the Commission has made the proper determination in its ruling adopted June 26th, 2003.

/S/		
Joe Shields		
Texas Government &	& Public Relations Spokesperson for Private Citizen	Inc
16822 Stardale Lane		

³ See the disclaimer at the bottom of the attached fax blaster facsimile advertisement

Respectfully submitted,

Friendswood, Texas 77546

One-time notice on free storage conference

TO: Moham FAX: 28185

FROM: Storage Management enrollment committee

RE: Your attendance at the free Storage Management conference in Chicago

Mohammad,

As a SearchStorage.com member we wanted to send you this personal invitation to our free Storage Management conference in Chicago. You'll only receive this one fax from us, with the conference only 3 weeks away we just wanted to make sure you knew about it.

With less than 40 seats left, we wanted to provide you with some information about the conference so you can make a decision on whether or not it would be beneficial for you to come. Once you have made your decision, you can call our enrollment representatives directly at **781-657-1699** and we'll take care of your registration right away. You can also go to www.storageManagement2003.com for all the information about the conference and to apply online. Here's just a preview of what you get at our free conference.

Advice from independent experts only - All sessions are delivered by the leading independent experts (13 of them to be specific). This ensures no vendor sales pitches from the podium, only vendor neutral expertise from our all-star panel of experts including analysts from Gartner, META, the Yankee Group, Steve Duplessie, Jon William Toigo and many more.

Sessions on the issues your company is currently facing - Tips and strategies on backup/DR, automating storage management, doubling the productivity of your staff, tailored storage solutions for database apps and email, choosing the best storage management software for your company, building and scaling SANs and more.

6 workshops tailored to your level of expertise - Regardless of your level of expertise with networked storage, you'll get expert advice to maximize the efficiency of your storage operations. Our 3 Learning Curve workshops provide you with proven tips and strategies to build and scale your storage network, select storage management software and effectively use storage management solutions to reduce the cost of managing your enterprise storage environment. 3 Expert workshops provide you with policies and procedures to build a disaster recovery, ensure your backup delivers as promised get the storage performance and protection you need for your mission critical OLTP databases.

Network with 500 leading storage managers - Our screening process ensures only the highest-level storage managers attend the conference. Share your experiences and swap solutions at the multiple networking events with the leading storage managers from All State, Sears, GE, United Airlines, Bank of Montreal, Boeing, State Farm, Coca Cola, Wells Fargo, Exxon Mobil, Blue Cross Blue Shield, Walgreen's, JP Morgan, Kraft Foods, the CIA and First Data Corp, just to name a few.

And much more. Seating is on a first-come, first-served basis, so to make sure you get a seat call us directly at 781-657-1699. If you want more information, take a look at the conference site at www.storageManagement2003.com or call us, we're here to answer any of your questions. If it's easier for you, you can also fax this page to us at 781-657-1100 and we'll follow up with you, just check off the appropriate box below. It's right around the corner – and it's free – don't miss out!

off the appropriate box below. It's right around the corner – and it's free – don't miss out:
YES! I'd like you to call me at this phone number with more info about the full benefits of this conference and how I can qualify for free admission.
NO. I can't attend (please offer my seat to another potential delegate).
We hope you find this information helpful and look forward to hearing from you. Sincerely,
Storage Management conference Enrollment committee 781-657-1699

PS: You have received this fax because you're a SearchStorage.com member. Visit www.StorageManagement2003.com or you can call us right now at 781-657-1699 to ensure we save you a seat at no charge.

One-time notice on free storage conference

TO: Sam FAX: 28185

FROM: Storage Management enrollment committee

RE: Your attendance at the free Storage Management conference in Chicago

Samuel.

As a SearchStorage.com member we wanted to send you this personal invitation to our free Storage Management conference in Chicago. You'll only receive this one fax from us, with the conference only 3 weeks away we just wanted to make sure you knew about it.

With less than 40 seats left, we wanted to provide you with some information about the conference so you can make a decision on whether or not it would be beneficial for you to come. Once you have made your decision, you can call our enrollment representatives directly at **781-657-1699** and we'll take care of your registration right away. You can also go to www.storageManagement2003.com for all the information about the conference and to apply online. Here's just a preview of what you get at our free conference.

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6 workshops tailored to your level of expertise - Regardless of your level of expertise with networked storage, you'll get expert advice to maximize the efficiency of your storage operations. Our 3 Learning Curve workshops provide you with proven tips and strategies to build and scale your storage network, select storage management software and effectively use storage management solutions to reduce the cost of managing your enterprise storage environment. 3 Expert workshops provide you with policies and procedures to build a disaster recovery, ensure your backup delivers as promised get the storage performance and protection you need for your mission critical OLTP databases.

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YES! I'd like you to call m about the full benefits of t	e at this phone number this conference and how	rwI can qualify for free	with more info
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Location: University of Phoenix, 11451 Katy Freeway, Ste 200, Houston, TX 77079 Sponsored by: "Bridge21, Inc." - America's Largest QuickBooks Trainer

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further faxes, please call us toll free 1-866-204-6540 to be removed.

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- Fax this completed registration toll-free to (888) 738-9920 or mail to:
- Bridge21, Inc., 504 South Durbin St., Casper, WY 82601

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